

In the Matter of Merchant Mariner's Document No. DZ85033-D1 and all  
Documents  
Issued to: FRANCIS PALLANDO

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1143

FRANCIS PALLANDO

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

An Examiner of the United States Coast Guard conducted a hearing at Philadelphia, Pennsylvania and, by order dated 28 May 1959, suspended Appellant's seaman documents upon finding him guilty of misconduct based on his plea of guilty to five specifications. These specifications allege that while serving as a deck maintenanceman on the United States SS DE SOTO under authority of the document above described, on 5, 22, 24, 29 and 30 December 1958, Appellant was absent from his duties without permission; on 2 January 1959, Appellant wrongfully failed to perform his duties. The ship was at various foreign ports or at sea when these offenses were committed.

Appellant's prior record during more than 20 years at sea consists of a six months' suspension on nine months' probation in July 1958 for failure to perform duties as well as assault and battery. After concluding that the charge and five specifications had been proved by plea, the Examiner entered an order suspending all documents, issued to Appellant, for a period of six months outright and twelve months on twelve months' probation. The entire six months' outright suspension was the result of the revocation of the probation ordered for the offenses which Appellant was found guilty of in 1958.

OPINION

On appeal, Appellant states that the order is unfairly severe because he was previously fined by both the shipowner and the union for the times he missed work due to his drinking. Appellant also mentions his unblemished record for 20 years prior to 1958 and the service he rendered in helping to put out a fire on the ship in December 1958.

I am not persuaded to modify the order of the Examiner. As he pointed out, the Appellant has received no outright suspension in addition to that required for a violation of the probation imposed in 1958. In effect, Appellant has received only an additional suspension on probation for the present offenses.

The fines imposed against Appellant by other officials are not relevant to these remedial proceedings. This suspension is not considered to be a fine or punishment but a deterrent, corrective action to influence Appellant's and other seamen's conduct in the future for the benefit of safety at sea. When seamen do not perform their assigned duties, some element of danger is involved because the ship must be operated without its full complement. The purpose of this proceeding is to discourage such conduct by depriving Appellant of the use of his document for six months.

ORDER

The order of the Examiner dated at Philadelphia, Pennsylvania, on 28 May 1959, is AFFIRMED.

A. C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 24th day of February, 1960.